

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3
 4 TESSERA, INC.,

No. C 05-4063 CW

5 Plaintiff,

ORDER GRANTING THE
 ASE DEFENDANTS'
 MOTION TO ADOPT
 THE SPECIAL
 MASTER'S JUNE 19,
 2013 ORAL REPORT
 AND RECOMMENDATION
 (Docket Nos. 1200,
 1202 and 1203)

6 v.

7 ADVANCED MICRO DEVICES, INC.;
 8 SPANSION, LLC; SPANSION, INC;
 9 SPANSION TECHNOLOGY, INC.;
 10 ADVANCED SEMICONDUCTOR
 11 ENGINEERING, INC.; ASE (U.S.),
 12 INC.; CHIPMOS TECHNOLOGIES, INC.;
 13 CHIPMOS U.S.A., INC.; SILICONWARE
 14 PRECISION INDUSTRIES CO., LTD.;
 15 SILICONWARE USA, INC.;
 16 STMICROELECTRONICS N.V.;
 17 STMICROELECTRONICS, INC.; STATS
 18 CHIPPAC, INC.; STATS CHIPPAC
 19 (BVI), LTD.; and STATS CHIPPAC,
 20 LTD.,

21 Defendants.

22 _____/
 23 AND ALL RELATED COUNTERCLAIMS
 24 _____/

25 Defendants Advanced Semiconductor Engineering, Inc. and ASE
 26 (U.S.), Inc. (ASE Defendants) request that the Court adopt the
 27 June 19, 2013 oral report and recommendation made by the Special
 28 Master to resolve the ASE Defendants' motion to enforce their
 agreement with Plaintiff Tessera, Inc. that Tessera's infringement
 and damages expert reports were due by May 15, 2013. Tessera
 opposes the motion. The parties also dispute the standard that
 the Court should utilize to review the Special Master's report and
 recommendation.

29 Having considered the papers filed by the parties, the Court
 30 grants ASE's motion and adopts the Special Master's report and
 31 recommendation, under either the de novo or abuse of discretion

1 standard, for the reasons set forth by the Special Master orally
2 at the hearing. The parties agreed, first in the March 22, 2013
3 email exchange and then again in the March 28, 2013 email
4 exchange, that Tessera's expert reports on infringement and
5 damages with respect to the ASE Defendants would be due on May 15,
6 2013. Tessera has not shown that it had substantial justification
7 to serve supplemental expert reports on May 31, 2013, on the basis
8 that the ASE Defendants did not complete their production of die
9 thickness information until April 8, 2013; Tessera knew, at the
10 time of the March 28, 2013 affirmation, that it would not receive
11 this production until April 8, 2013 and cannot now complain that
12 the agreed-upon schedule left it with insufficient time. Further,
13 Tessera has not shown that the delay would not prejudice the ASE
14 Defendants.

15 Accordingly, as recommended by the Special Master, the Court
16 orders that Tessera may not rely on the expert reports of
17 Professors Fan, Han, Sullivan, or Start served on May 31, 2013
18 with respect to any infringement or damages claim against ASE.
19 The Court denies ASE's request for attorneys' fees and costs
20 incurred in connection with comparing the original reports to the
21 supplemental reports and in bringing the motion to enforce the
22 agreement.

23 The motion and stipulation to shorten time are denied as
24 moot. This Order resolves Docket Nos. 1200, 1202 and 1203.

25 IT IS SO ORDERED.

26
27 Dated: 7/19/2013

28

CLAUDIA WILKEN
United States District Judge